

AMENDED IN SENATE APRIL 9, 2003

SENATE BILL

No. 496

Introduced by Senator Alpert

February 20, 2003

An act to ~~amend Section 273a of the Penal Code, and to add Chapter 8.6 (commencing with Section 13879.80) to Title 6 of Part 4 of the Penal Code, relating to drug endangered children.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 496, as amended, Alpert. Drug endangered children.

~~Existing law provides that it is a crime punishable by imprisonment in a county jail for a period not to exceed 6 months, a fine of up to \$1,000, or by both that imprisonment and fine for a person, under circumstances or conditions other than those likely to produce great bodily harm or death, and having the care or custody of any child, to willfully cause or permit that child to be placed in a situation where his or her person or health may be endangered. Existing law also provides that it is a crime punishable by imprisonment in a county jail for a period of one year, or by imprisonment in the state prison for 2, 4, or 6 years for a person, under circumstances or conditions likely to produce great bodily harm or death and having the care or custody of a child, to willfully cause or permit that child to be placed in a situation where his or her person or health is endangered.~~

~~This bill would provide that it is a crime punishable by imprisonment in a state prison for 2, 4, or 6 years for any person to cause or permit any child to absorb, inhale, or otherwise ingest any amount of certain specified controlled substances, or to permit a child to be placed in a situation where methamphetamine is manufactured or sold. This bill would also provide that it is a crime punishable by imprisonment in a~~

~~county jail for a period not exceeding one year, in the state prison for 2, 4, or 6 years for a person having the care or custody of a child to permit the child to be in a situation where specified controlled substances are possessed, stored, or ingested. Because this bill would create new crimes, it would impose a state-mandated local program.~~

Existing law establishes a pilot program of technical and financial assistance for counties, entitled the California Drug Endangered Child Protection Act in the Office of Criminal Justice Planning. Existing law provides that counties implementing a drug endangered children program and receiving funds pursuant to the program shall establish multiagency drug endangered child response teams in cooperation with local, state, and federal law enforcement agencies, and the county departments of health and children's services to perform certain services, as specified, including response to cases involving a drug endangered child. Existing law also provides that district attorneys in counties receiving funds under this chapter shall concentrate enhanced prosecution efforts and resources upon individuals who endanger children through exposure to the clandestine manufacture of controlled substances.

This bill would encourage every law enforcement and social services agency in this state to, by January 1, 2005, develop, adopt, and implement written policies and standards for their response to narcotics crime scenes where a child is either immediately present or where there is evidence that a child lives. This bill would provide that these policies would reflect the fact that exposing a child to the manufacturing, trafficking, and use of narcotics is criminal conduct and that a response coordinated by law enforcement and social services agencies is essential to the child's health and welfare, as specified. This bill would also encourage communities to form multijurisdictional groups to develop standards and protocols that address specified issues with respect to law enforcement response to drug endangered children.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: ~~yes~~ *no*.



The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 273a of the Penal Code is amended to~~
2 ~~read:~~

3 ~~273a. (a) Any person who, under circumstances or~~
4 ~~conditions likely to produce great bodily harm or death, willfully~~
5 ~~causes or permits any child to suffer, or inflicts thereon~~
6 ~~unjustifiable physical pain or mental suffering, or having the care~~
7 ~~or custody of any child, willfully causes or permits the person or~~
8 ~~health of that child to be injured, or willfully causes or permits that~~
9 ~~child to be placed in a situation where his or her person or health~~
10 ~~is endangered, shall be punished by imprisonment in a county jail~~
11 ~~not exceeding one year, or in the state prison for two, four, or six~~
12 ~~years.~~

13 ~~(b) Any person who, under circumstances or conditions other~~
14 ~~than those likely to produce great bodily harm or death, willfully~~
15 ~~causes or permits any child to suffer, or inflicts thereon~~
16 ~~unjustifiable physical pain or mental suffering, or having the care~~
17 ~~or custody of any child, willfully causes or permits the person or~~
18 ~~health of that child to be injured, or willfully causes or permits that~~
19 ~~child to be placed in a situation where his or her person or health~~
20 ~~may be endangered, is guilty of a misdemeanor.~~

21 ~~(c) (1) Notwithstanding subdivision (a) or (b) or any other~~
22 ~~provisions of law, any person who causes or permits any child to~~
23 ~~absorb, inhale, or otherwise ingest any amount of cocaine, cocaine~~
24 ~~base, gamma hydroxybutyric acid (GHB), heroin,~~
25 ~~methamphetamine, or phenethylidine (PCP), or causes or permits~~
26 ~~that child to be placed in a situation where methamphetamine is~~
27 ~~manufactured or sold, is guilty of a felony punishable by~~
28 ~~imprisonment in the state prison for two, four, or six years.~~

29 ~~(2) Any person, having the care or custody of any child, who~~
30 ~~willfully causes or permits that child to be placed in a situation~~
31 ~~where cocaine, cocaine base, gamma hydroxybutyric acid (GHB),~~
32 ~~heroin, methamphetamines, or phenethylidine (PCP) are~~
33 ~~possessed, stored, smoked, or ingested in any manner shall be~~
34 ~~punishable by imprisonment in a county jail for a period not~~
35 ~~exceeding one year or in the state prison for two, four, or six years.~~

36 ~~(d) If a person is convicted of violating this section and~~
37 ~~probation is granted, the court shall require the following~~
38 ~~minimum conditions of probation:~~

~~(1) A mandatory minimum period of probation of 48 months.~~

~~(2) A criminal court protective order protecting the victim from further acts of violence or threats, and, if appropriate, residence exclusion or stay-away conditions.~~

~~(3) (A) Successful completion of no less than one year of a child abuser's treatment counseling program approved by the probation department. The defendant shall be ordered to begin participation in the program immediately upon the grant of probation. The counseling program shall meet the criteria specified in Section 273.1. The defendant shall produce documentation of program enrollment to the court within 30 days of enrollment, along with quarterly progress reports.~~

~~(B) The terms of probation for offenders shall not be lifted until all reasonable fees due to the counseling program have been paid in full, but in no case shall probation be extended beyond the term provided in subdivision (a) of Section 1203.1. If the court finds that the defendant does not have the ability to pay the fees based on the defendant's changed circumstances, the court may reduce or waive the fees.~~

~~(4) If the offense was committed while the defendant was under the influence of drugs or alcohol, the defendant shall abstain from the use of drugs or alcohol during the period of probation and shall be subject to random drug testing by his or her probation officer.~~

~~(5) The court may waive any of the above minimum conditions of probation upon a finding that the condition would not be in the best interests of justice. The court shall state on the record its reasons for any waiver.~~

~~SEC. 2.~~

~~SECTION 1.~~ Chapter 8.6 (commencing with Section 13879.80) is added to Title 6 of Part 4 of the Penal Code, to read:

CHAPTER 8.6. LAW ENFORCEMENT RESPONSE TO DRUG ENDANGERED CHILDREN

13879.80. (a) Every law enforcement and social services agency in this state is encouraged to develop, adopt, and implement written policies and standards for their response to narcotics crime scenes where a child is either immediately present or where there is evidence that a child lives, by January 1, 2005. These policies shall reflect the fact that exposing a child to the

1 manufacturing, trafficking, and use of narcotics is criminal
2 conduct and that a response coordinated by law enforcement and
3 social services agencies is essential to the child's health and
4 welfare.

5 (b) The needs of a drug endangered child are best served with
6 written policies encouraging the arrest of an individual for child
7 endangerment where there is probable cause that an offense has
8 been committed coordinated with an appropriate investigation of
9 the child's welfare by child ~~protection~~ *protective* agencies.
10 Protocols that encourage a dependency investigation
11 contemporaneous with a law enforcement investigation at a
12 narcotics crime scene, when appropriate, are consistent with a
13 child's best interest.

14 13879.81. Communities are encouraged to form
15 multijurisdictional groups that include law enforcement officers,
16 prosecutors, public health professionals, and social workers to
17 address the welfare of children endangered by parental drug use.
18 These coordinated groups should develop standards and protocols,
19 evidenced by memorandums of understanding, that address the
20 following:

- 21 (a) Felony and misdemeanor arrests.
- 22 (b) Immediate response of protective social workers to a
23 narcotics crime scene involving a child.
- 24 (c) Outsourcing protective social workers to law enforcement.
- 25 (d) Dependency investigations.
- 26 (e) Forensic drug testing and interviewing.
- 27 (f) Decontamination of a child found in a lab setting.
- 28 (g) Medical examinations and developmental evaluations.
- 29 (h) Creation of two hours of P.O.S.T. drug endangered children
30 awareness training.

31 ~~SEC. 3.—No reimbursement is required by this act pursuant to~~
32 ~~Section 6 of Article XIII B of the California Constitution because~~
33 ~~the only costs that may be incurred by a local agency or school~~
34 ~~district will be incurred because this act creates a new crime or~~
35 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
36 ~~for a crime or infraction, within the meaning of Section 17556 of~~
37 ~~the Government Code, or changes the definition of a crime within~~

- 1 ~~the meaning of Section 6 of Article XIII B of the California~~
- 2 ~~Constitution.~~

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